

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

BURBERRY LIMITED and  
BURBERRY LIMITED,

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: <u>1/24/12</u>

Plaintiffs,

v.

JOHN DOE 1 A/K/A QIAO RENFENG A/K/A QIU  
YANYANG A/K/A LIN RUI A/K/A CHEN DERONG A/K/A  
XUE BINXUAN A/K/A YONGBO LI A/K/A XIAO  
JINGJING A/K/A JIANG AI A/K/A XUZHEYE XUZHEYE  
A/K/A XU ZHEYE A/K/A ZHOUMINMIN A/K/A ZHAO LI  
A/K/A ZHENG LINTIAN A/K/A LINTIAN ZHENG A/K/A  
CHEN CHENG A/K/A YANG CHENG A/K/A HUANG  
YAYAN A/K/A WU JINGQING A/K/A WU WU A/K/A  
ZHANG LILI A/K/A CHEN MINXIA A/K/A LINXICHUN  
A/K/A XICHUN LIN A/K/A XUZIMI A/K/A XU ZIMI A/K/A  
HUANG BOMING A/K/A LIU GUOREN; JOHN DOE 2  
A/K/A LIUQING WU A/K/A WU LIUQING; JOHN DOE 3  
A/K/A HONGPUYI A/K/A WANGHAO A/K/A LIUTAO  
A/K/A LIMEI XIAO A/K/A XIAOLIMEI; JOHN DOE 4  
A/K/A CHEN XUE A/K/A CHEN DAI A/K/A CHEN DAIL  
A/K/A CHEN JUN YONG A/K/A CHEN XUEFENG; JOHN  
DOE 5 A/K/A WANG ZHENGLEI A/K/A SUN XIAN  
SHENG A/K/A XIANGSHENG WANG A/K/A WANG  
ZHENG LEI A/K/A ZHENGLEI WANG A/K/A ZHENG  
WANG A/K/A WANG XIAN SHENG; JOHN DOE 6 A/K/A  
HUANGMINJUN A/K/A WU LONGQI A/K/A LUO TINGFEI  
A/K/A QINFAN; JOHN DOE 7; JOHN DOE 8 A/K/A  
CHENQI A/K/A QI CHEN A/K/A JONE SMITH A/K/A LIN  
LIN A/K/A FJC004 A/K/A LE LE A/K/A JAMES D. HILL;  
JOHN DOE 9 A/K/A REN XIAOQING A/K/A XIAOQING  
REN A/K/A SUMMER A/K/A BUSINESS A/K/A AMY  
SMITH A/K/A XIONG TENG A/K/A XIONTENG A/K/A  
MIKE WANG A/K/A HE QIAN A/K/A DUOSIYIBEI A/K/A  
ANNIE HE; JOHN DOE 10 A/K/A JUNGLE KOO; JOHN  
DOE 11 A/K/A CHEN YIFAN A/K/A ZHANG SHI A/K/A LI  
CHANG A/K/A PENG PENG A/K/A WAN SAN SAN A/K/A  
MENG XIANG A/K/A GAN PING A/K/A FANG PING  
A/K/A CHEN ZHEN A/K/A KAI SHA A/K/A WANG BIN  
BIN A/K/A PING PING A/K/A LI MEIMEI A/K/A XU  
WANG A/K/A PING JIN A/K/A XUE JI MING A/K/A  
BOSER BOSET A/K/A WANG JIANG A/K/A WER ERW;  
JOHN DOE 12 A/K/A CHEN GUOPENG A/K/A GUOPENG  
CHEN; JOHN DOE 13 A/K/A WANGZHIQIANG A/K/A

12 CIV 0479

No.: \_\_\_\_\_

~~PROPOSED~~ TEMPORARY  
RESTRANDING ORDER,  
SEIZURE ORDER, ASSET  
RESTRANDING ORDER,  
DOMAIN NAME TRANSFER  
ORDER, ORDER FOR  
EXPEDITED DISCOVERY,  
ORDER PERMITTING  
SERVICE BY ELECTRONIC  
MAIL, AND ORDER TO  
SHOW CAUSE FOR A  
PRELIMINARY  
INJUNCTION

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YANG A/K/A ANDY A/K/A ONLY A/K/A LIURUOLAN;	:
JOHN DOE 14 A/K/A WAN ZHENCAI A/K/A HUANG YAN	:
A/K/A HUANG YAN JIN A/K/A YU MEI ZHANG A/K/A	:
YANG WEN XUE; XYZ COMPANIES, AND JOHN DOES	:
15-100,	:
Defendants.	:

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**[PROPOSED] TEMPORARY RESTRAINING ORDER, SEIZURE ORDER, ASSET RESTRAINING ORDER, DOMAIN NAME TRANSFER ORDER, ORDER FOR EXPEDITED DISCOVERY, ORDER PERMITTING SERVICE BY ELECTRONIC MAIL, AND ORDER TO SHOW CAUSE FOR A PRELIMINARY INJUNCTION**

Plaintiffs Burberry Limited (UK) and Burberry Limited (US) (collectively, “Burberry” or “Plaintiffs”) have moved *ex parte* against Defendants for a Temporary Restraining Order, Seizure Order, Asset Restraining Order, Domain Name Transfer Order, Order for Expedited Discovery, Order Permitting Service by Electronic Mail, and Order to Show Cause for a Preliminary Injunction.

The Court, having reviewed the Complaint, Memorandum of Law, supporting Declaration, and exhibits submitted herewith, finds that:

1. Plaintiffs are the owner of numerous valid and enforceable federally registered trademarks (the “Burberry Trademarks”), including the following registrations:

Registration Number	Registered Trademark	Registration Date	International Classes
1,607,316	BURBERRY	07/24/1990	09
2,624,684	BURBERRY	09/24/2002	35
1,747,765	BURBERRY	01/19/1993	14
2,875,336	BURBERRY	08/17/2004	09, 14
260,843	BURBERRY	08/27/1929	25
510,077	BURBERRY	05/24/1949	25
1,241,222	Burberry Check	06/07/1983	25
2,845,852	Burberry Check	05/25/2004	09
1,855,154	Burberry Check	09/20/1994	14
2,022,789	Burberry Check	12/17/1996	18, 24, 25, 28
3,529,814	Burberry Check	11/11/2008	18, 20, 21, 24, 25, 28, 35
2,612,272	Burberry Check	08/27/2002	35
2,732,617	Burberry Check	07/01/2003	03, 18, 25

3,202,484	BURBERRY LONDON	01/23/2007	03, 04, 09, 14, 16, 18, 20, 21, 25, 28
1,133,122	BURBERRYS	04/15/1980	18
1,622,186	Equestrian Knight Design	11/13/1990	09
2,512,119	Equestrian Knight Design	11/27/2001	03, 18
2,952,399	Equestrian Knight Design	05/17/2005	09, 14
1,903,508	Equestrian Knight Design	07/04/1995	14
863,179	Equestrian Knight Design	01/07/1969	25
2,610,329	PRORSUM	08/20/2002	25
2,654,697	PRORSUM	11/26/2002	18

2. Plaintiffs are likely to succeed in showing that Defendants are using Internet websites to offer for sale and sell products bearing Counterfeit Products (as that term is defined in the Complaint), to consumers in the United States;

3. The Defendants' manufacturing, distribution, offering for sale, and sale of Counterfeit Products will result in immediate and irreparable injury to Plaintiffs if injunctive relief is not granted, including seizure of Counterfeit Products, as well as Defendants' means of selling and distributing Counterfeit Products, and the disclosure of records pertaining thereto is not ordered;

4. Plaintiffs have demonstrated that the Defendants are entities or individuals operating websites, as set forth in the Complaint ("Infringing Websites"), offering for sale and selling Counterfeit Products, using various domain names, including, without limitation, the following domain names containing the BURBERRY® word mark or a confusingly similar variant thereof (collectively, the "Infringing Domain Names"):

- 2011Burberry-Outlet.com
- 2011BurberryOutlet.info
- 2011BurberrySale.com
- Bur-Berry.com
- Burberry-Bag-Outlets.com
- Burberry-BagOutlets.com
- Burberry-Bags-Outlet.com
- Burberry-BagsOutlet.com
- Burberry-Mens.com
- Burberry-Outlet.us
- Burberry-Outlet-Online.org
- Burberry-Outlet2011.com
- Burberry-Outlet2011.net
- Burberry-OutletSale.net
- Burberry-OutletSale.org
- Burberry-Premium-Outlet.com

- Burberry-s.com
- Burberry-Sales.net
- Burberry-Vision.com
- Burberry-Visions.com
- Burberry-Womens.com
- Burberry1856.net
- BurberryBagOutlet.org
- BurberryBags1856.net
- BurberryBorse.com
- BurberryCheapStore.com
- BurberryForCheap.com
- BurberryForSales.com
- BurberryOnline-Sale.com
- BurberryOutletOnlines.com
- BurberryOutlet-Online.org
- BurberryOutlet-Onlines.net
- BurberryOutlet-s.com
- BurberryOutlet-Sale.info
- BurberryOutlet-Sale.net
- BurberryOutlet-Sale.us
- BurberryOutlet2011.org
- BurberryOutlet4u.org
- BurberryOutletA.com
- BurberryOutletB.com
- BurberryOutletC.com
- BurberryOutletD.com
- BurberryOutletDresses.com
- BurberryOutletDressss.com
- BurberryOutletE.com
- BurberryOutletF.com
- BurberryOutletFab.com
- BurberryOutletFabs.com
- BurberryOutletFactory.com
- BurberryOutletG.com
- BurberryOutleti.com
- BurberryOutletInc.com
- BurberryOutletKick.com
- BurberryOutletNew.net
- BurberryOutletOK.com
- BurberryOutletOnline.info
- BurberryOutletOnline.org
- BurberryOutletOnline-Store.net
- BurberryOutletOnline-Store.org
- BurberryOutletOnline4u.com
- BurberryOutletOnline4u.net
- BurberryOutletOnline4u.org
- BurberryOutletOnlinee.com
- BurberryOutletOnlinee.net
- BurberryOutletOnlinee.org
- BurberryOutletOnlineShops.net
- BurberryOutletoUSA.com
- BurberryOutletSaleOK.com
- BurberryOutletSaleOnline.net
- BurberryOutletSaleT.com
- BurberryOutletScarfs.com
- BurberryOutletsDress.com
- BurberryOutletsDresses.com
- BurberryOutletSet.com
- BurberryOutletsEtin.com
- BurberryOutletss.org
- BurberryOutletUSA.com
- BurberryOutletWeb.com
- Burberrys-Vision.com
- BurberrySale-Online.com
- BurberrySale-Outlet.com
- BurberrySale-Outlet.net
- BurberrySale-USA.com
- BurberrySale365.com
- BurberrySaleOutlet.info
- BurberrySaleOutlet.net
- BurberrySaleOutlet.org
- BurberrySaleOutlet.us
- BurberrySales.net
- BurberrySaleWorld.com
- BurberryScarfes.com
- BurberrySitOufficiale.com
- BurberrySitOufficiale-IT.com
- BurberrysOutletOnline.info
- BurberrysOutletsDress.com
- BurberryStoreSale.com
- BurberryVision.com
- BurberryVisions.com
- Burberryz.com
- CheapBurberry-Outlet.com
- CheapBurberry-OutletOnline.com
- CheapBurberryOutletSale.net
- CheapBurberrySaleOutlet.com
- CheapBurberrySaleOutlet.net
- CheapBurberrySaleOutlet.org
- CheapBurberrySaleOutlets.com
- CheapBurberrySaleOutlets.net
- CheapBurberrySaleOutlets.org

- CheapBurberrySelling.com
- CheapBurberrysSaleOutlet.com
- CheapBurberrysSaleOutlet.net
- CheapBurberrysSaleOutlet.org
- DiscountBurberryOutlet.com
- MyBurberrySale.com
- Online-BurberryOutlet.net
- Online-BurberryOutlet.org
- OnlineBurberryOutlet.net
- OnlinesBurberryOutlet.com
- TopBurberrySales.com
- USA-BurberryForSale.net
- USABurberryForSale.com
- USABurberryHandbagsSale.com
- USBurberry-Outlet.com
- YesBurberryVision.com

5. Defendants would likely destroy, move, hide or otherwise make the Counterfeit Products, Defendants' means of selling and distributing Counterfeit Products, and business records relating thereto inaccessible to the Court if Plaintiffs were to proceed on notice to Defendants, thus frustrating the ultimate relief Plaintiffs seek in this action;

6. In addition, if Plaintiffs were to proceed on notice to Defendants, the Defendants will very likely reshuffle the Infringing Domain Names comprising their network,

7. Plaintiffs' harm from denial of the requested *ex parte* seizure order would outweigh any harm to Defendants' legitimate interests from granting such an order;

8. Plaintiffs have represented that they have not publicized the requested seizure order;

9. Plaintiffs have provided the United States Attorney for the Southern District of New York with reasonable notice of this application for an *ex parte* seizure order;

10. Entry of an order other than an *ex parte* order would not adequately achieve the purposes of the Lanham Act to preserve Plaintiffs' equitable remedies for trademark counterfeiting, including: *inter alia*, the restraint of Defendants' Infringing Websites, the seizure of Defendants' means of distributing, offering for sale and selling Counterfeit Products, the acquisition of the business records relating to Counterfeit Products, and an award to Plaintiffs of lost profits.

THEREFORE, IT IS HERBY ORDERED that Defendants, and their officers, agents, servants, employees and attorneys and all those in active concert or participation with them, are TEMPORARILY RESTRAINED from:

- a. Using any reproduction, counterfeit, copy or colorable imitation of the Burberry Trademarks (as defined herein) for and in connection with any goods or their packaging not authorized by Burberry;
- b. Engaging in any course of conduct likely to cause confusion, deception or mistake, or to injure Plaintiffs' business reputation or dilute the distinctive quality of the Burberry Trademarks;
- c. Using any false description or representation, including words or other symbols tending falsely to describe or represent Defendants' unauthorized goods or their packaging as being those of Burberry, or sponsored by or associated with Burberry, and from offering such goods into commerce;
- d. Further infringing the Burberry Trademarks by manufacturing, producing, distributing, circulating, selling, marketing, offering for sale, advertising, promoting, renting, displaying or otherwise disposing of any products or their packaging not authorized by Burberry that bear any simulation, reproduction, counterfeit, copy or colorable imitation of the Burberry Trademarks;
- e. Using any simulation, reproduction, counterfeit, copy or colorable imitation of the Burberry Trademarks in connection with the promotion, advertisement, display, sale, offering for sale, manufacture, production, circulation or distribution of any unauthorized products or their packaging in such fashion as to relate or connect, or tend to relate or connect, such products in any way to

Burberry, or to any goods sold, manufactured, sponsored or approved by, or connected with Burberry;

- f. Making any statement or representation whatsoever, or using any false designation of origin or false description, or performing any act, which is or may be likely to lead the trade or public, or individual members thereof, to believe that any products manufactured, distributed, or sold by Defendants are in any manner associated or connected with Burberry, or are sold, manufactured, licensed, sponsored, approved or authorized by Burberry;
- g. Infringing the Burberry Trademarks or Plaintiffs' rights therein, or using or exploiting the Burberry Trademarks, or diluting the Burberry Trademarks;
- h. Secreting, destroying, altering, removing, or otherwise dealing with the unauthorized products or any books or records which contain any information relating to the importing, manufacturing, producing, distributing, circulating, selling, marketing, offering for sale, advertising, promoting, renting or displaying of all unauthorized products which infringe or dilute the Burberry Trademarks; and
- i. Effecting assignments or transfers, forming new entities or associations or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth in any Final Judgment or Order in this action; and
- j. Using, linking, transferring, selling, exercising control over, or otherwise owning the Infringing Domain Names, or any other domain name that incorporates, in whole or in part, any of the Burberry Trademarks; and

IT IS FURTHER ORDERED THAT Defendants immediately deliver up to Burberry all unauthorized products, advertisements and packaging in their possession or under their control bearing any of the Burberry Trademarks or any simulation, reproduction, counterfeit, copy or colorable imitation thereof, and all plates, molds, matrices and other means of production of same pursuant to 15 U.S.C. § 1118; and

IT IS FURTHER ORDERED THAT Burberry shall provide notice of this Order to the appropriate Internet registry, including without limitation Verisign, Inc. (“Verisign”) and the Public Interest Registry (“PIR”), and the individual ICANN-accredited domain name registrar(s) of record for each of the Defendants’ Infringing Domain Names; and

IT IS FURTHER ORDERED THAT the domain name registry shall place the Infringing Domain Names on registry lock, making them non-transferable by the Defendant-Registrants, and on hold, which prevents websites associated with the Infringing Domain Names from resolving when queried by a browser pending further Order of this Court; and

IT IS FURTHER ORDERED THAT any third party providing services in connection with any Defendant’s Infringing Website or Infringing Domain Name, including without limitation Internet registrars, Internet Service Providers (“ISPs”), back-end service providers, web designers, sponsored search engine or ad-word providers, merchant account providers, third party processors and other payment processing services, and shippers (collectively, “Third Party Providers”) immediately cease rendering any such services pending further Order of this Court; and

IT IS FURTHER ORDERED THAT any Third Party Provider shall, upon receiving notice of this Order, deliver to Plaintiffs or their representatives copies of documents and records relating to Defendants, Defendants’ Websites, Defendants’ Infringing Domain Names,

Defendants' assets and Defendants' business operations, including but not limited to records and data contained in electronic format, such delivery to be made in their native format; and

IT IS FURTHER ORDERED THAT in accordance with Rule 64 of the Federal Rules of Civil Procedure, 15 U.S.C. § 1116(a) and this Court's inherent equitable power to issue provisional remedies ancillary to its authority to provide final equitable relief, Defendants and their officers, servants, employees, and agents, and any persons in active concert or participation with them, and any banks, savings and loan associations, or other financial institutions, including without limitation PayPal, credit card companies (including but not limited to MasterCard, Visa, and American Express), or other merchant account providers, payment providers, or third party processors (collectively, "Financial Services Providers") for any Defendant, any of the Defendants' Infringing Websites, or for any other website owned or controlled by Defendants, who receive actual notice of this Order, shall immediately locate all accounts connected to Defendants and be temporarily restrained and enjoined from transferring or disposing of any money, stocks, or other of Defendants' assets, without prior approval of the Court, except as to a Defendant that files with the Court and serves upon Plaintiffs' counsel:

- (1) an accounting of any of all of Defendant's assets located in the United States and the location and identity thereof; and
- (2) documentary proof accepted by Plaintiffs, (such acceptance not to be unreasonably withheld) that particular assets are not proceeds of Defendants' counterfeiting activities, in which case those particular assets shall be released to such Defendant; and

IT IS FURTHER ORDERED THAT any Financial Services Providers shall, upon receiving notice of this Order, deliver to Plaintiffs or their representatives copies of documents and records relating to Defendants' assets and business operations, including but not limited to

records and data contained in electronic format, such delivery to be made in their native format; and

IT IS FURTHER ORDERED THAT this Temporary Restraining Order shall remain in effect until the date for hearing on the Order to Show Cause set forth, or such further dates as set by the Court, unless Defendants stipulate, or have not objected, to the Preliminary Injunction; and

IT IS FURTHER ORDERED THAT Plaintiffs shall post a corporate surety bond, cash or certified or attorney's check in the amount of 1000 as security, determined adequate for the payment of such damages as any person may be entitled to recover as a result of a wrongful seizure or restraint hereunder; and

IT IS FURTHER ORDERED THAT Plaintiffs may complete service of process on Defendants by electronic mail to the addresses set forth in Exhibit 1 of the Complaint, which Plaintiffs have demonstrated will provide adequate notice to Defendants pursuant to FED. R. CIV. P. 4; and

IT IS FURTHER ORDERED THAT sufficient cause having been shown, the above seizure shall take place, and service of this Order together with the Summons and Complaint shall be made within twenty (20) business days from the date of this Order or at such time as may be extended by this Court; and

IT IS FURTHER ORDERED THAT Plaintiffs' counsel file with the court within ten (10) business days after this Order is executed, an affidavit or declaration stating the date on which the Order was executed, the means of serving Defendants, whether goods and/or other materials were seized and a description thereof, whether domain names were seized and a description thereof and whether assets were seized and/or restrained a description thereof; and

IT IS FURTHER ORDERED THAT the Defendants appear to show CAUSE on

/ February 9, 2012 at 4:30 a.m./p.m., or as soon thereafter as counsel can be heard, in Courtroom  
/ 26B of the United States District Court for the Southern District of New York at 500 Pearl  
Street, New York, NY, why an Order pursuant to Rules 64 and 65 of the Federal Rules of Civil  
Procedure and Section 34 of the Lanham Act should not be entered granting Plaintiffs a  
Preliminary Injunction on the terms as set forth above, and

IT IS FURTHER ORDERED THAT Defendants' answering papers, if any, shall be filed  
with the Clerk of this Court and served upon the attorneys for Plaintiff by delivering copies  
thereof to the offices of the Gioconda Law Group PLLC, 1 Penn Plaza, 36<sup>th</sup> Floor, Attn: Joseph  
C. Gioconda, Esq., before noon on February 12, 2012. Any reply shall be filed and served by Plaintiffs at  
the hearing.

Defendants are hereby given notice that failure to attend the hearing scheduled herein  
may result in confirmation of the seizure authorized herein, destruction or other disposition of  
the goods seized, if any, immediate issuance of the prayed-for Preliminary Injunction to take  
effect immediately upon expiration or dissolution of the within Temporary Restraining Order,  
and shall otherwise extend for the pendency of this litigation relief upon the same terms and  
conditions as comprise this Temporary Restraining Order.

SO ORDERED:



Hon. \_\_\_\_\_  
United States District Court Judge

Dated: 1/27/12